

August 15, 2013

The Honorable Scott Gessler
Secretary of State
Department of State
1700 Broadway
Denver, CO 80290

Re: Recall Election Procedures

Dear Secretary Gessler:

The following comments are presented on behalf of the organizations identified below.

Over the last several decades, Colorado has taken significant steps toward the goal of ensuring that all eligible voters are actually able to vote and to have their vote counted. Those steps started with no-excuse absentee ballots, followed by the institution of mail ballots, the permanent mail ballot list, the advent of vote centers where anyone in a county could vote at any location in their county, all the way through the adoption of the Colorado Voter Access and Modernized Elections Act earlier this year. These advancements, particularly the right to receive a mail ballot, have been embraced by Colorado voters to the tune of more than 70% choosing to vote by mail statewide in 2012. Voters in Colorado have come to expect a mail ballot and the convenience of being able to vote from their homes during the several weeks leading up to an election.

The circumstances we are now faced with require us to run these elections under a voting model that has not been in place for well over 10 years. The elimination of mail ballots from the election plan is very significant. In 2012, Senate District 11 had approximately 45,800 permanent vote by mail electors, and approximately 72% of them actually voted by mail ballot. In Senate District 3, there were approximately 45,700 permanent vote by mail electors and almost 91% of them voted by mail ballot. These are voters who are expecting a mail ballot, and have come to rely upon a mail ballot because of the convenience, or because of demands in their life that make it impossible for them to get to a physical polling location. It is incumbent upon the Secretary of State and the county clerks to craft an election plan that ensures these and all other voters are not disenfranchised.

Our specific concerns and suggestions are as follows:

1. **Voter Service & Polling Centers:** These elections should be established as voter service and polling center elections, rather than polling place elections. Given the novelty of the model and the short notice that voters will have of the election process, voters should be able to go to any voting location in the county to cast a ballot.
2. **Number of Voter Service & Polling Centers:** We believe that El Paso County should establish at least 18 vote centers, and that Pueblo County should establish at least 24 vote centers. The historical formula for vote centers of one per 10,000 registered active voters, as previously contained in Section 1-5-102.7, C.R.S., and the formula for Voter

Service and Polling Centers of one for each DMV office in the county, as set forth in Section 1-7.5-107(4.5)(a), C.R.S., contemplate significant mail ballot usage. Relying on those formulas alone will not be adequate in these elections. The number of vote centers must be able to also service the almost two-thirds of the voters (63.8% in El Paso County and 61.3% in Pueblo County) who voted by mail in the 2012 election in El Paso County and Pueblo County. Our view is that this requires, at a minimum, a tripling of the number of vote centers otherwise calculable under the statute. Because there are 68,905 active registered electors in Senate District 11, El Paso County would, under the historical vote center formula, be required to have 6 vote centers which, when increased to accommodate mail ballot voters, would result in 18 vote centers. In Senate District 3, there are approximately 81,000 active registered voters, which would require 8 vote centers under the historical formula, and when increased in anticipation of the increased demand from mail ballot voters, would mean 24 vote centers.

The plan for vote centers introduced in the Denver District Court hearing on Monday, August 12, stated that El Paso County would have 4 vote centers and Pueblo County would have 3 vote centers and that they would be open for 5 days, including Election Day. Assuming equal usage across days and hours (which we believe is not an appropriate assumption), this plan would yield 48 possible voting hours. In El Paso County, that would mean any particular vote center would have to process 358 voters per hour (68,905 eligible electors divided by 48 hours, then divided by 4 vote centers, which yields 358 voters per hour per site). This is absolutely not feasible, and will result in the disenfranchisement of voters. Similar calculations for Pueblo County would require Pueblo County to process 568 voters per hour per site. This is an even more absurd result in terms of ensuring that voters are able to cast a ballot in the recall elections.

An alternative to establishing 18 and 24 Voter Service and Polling Centers in El Paso and Pueblo counties, respectively, could be to establish fewer such centers, but still more than was contemplated in the counties' original plan, and effectively make them "mega" centers with a significantly increased number of voter check-in stations, election judges, supervisor judges and election supplies. For example, using a warehouse or a school gymnasium or similar facility and staffing it with 20-30 voter check-in stations and commensurate election workers and supplies, might be another way of addressing the vastly increased demand due to the elimination of mail ballots.

Both El Paso and Pueblo counties conducted elections just 10 months ago that were polling place elections and have identified possible locations for the placement of Voter Service and Polling Centers. We acknowledge that certain of these locations may not be large enough to accommodate such a center and that the requirement for connectivity to SCORE was not part of the selection criteria last November. Nonetheless, these locations can be used as a starting point in identifying the needed Voter Service and Polling Center locations. Spreading the Voter Service and Polling Centers throughout the County will also increase accessibility for voters, and could be facilitated, for example, by using college campuses as locations. It is also important to note that the locations previously used have been surveyed for accessibility for voters with disabilities, and therefore plans should already be in place to address any accessibility barriers.

3. **Equipment and Staffing:** Not only is it important to make sure that there are an adequate number of Voter Service and Polling Centers established throughout each district, but there must be sufficient staff and equipment to handle the anticipated demand. The counties' earlier plans for their VSPCs in the recall election did not anticipate that every voter would be voting in person, and there will need to be a significant increase in election judges to make sure that voters are served. The Secretary of State should work closely with both counties to ensure that there will be enough computers to check voters in and issue ballots, as well as the supplies and technology required for voting (e.g. ballot on demand printers, DREs, etc.).
4. **Hours for Voting:** Given the abbreviated time period for in-person voting and the lack of automatic mail ballot delivery to all active voters, we believe that all Voter Service and Polling Centers must offer expanded hours for voting to ensure voters the opportunity to participate. While we recognize that, historically, some voters may have chosen to vote by mail for convenience, there are also voters who chose mail balloting due to scheduling issues that made in-person voting difficult. Our organizations urge the Secretary of State to require that the Voter Service and Polling Centers be open from 7 A.M. to 7 P.M. each day that they are open for voting. Voters for whom voting during regular business hours is inconvenient must be given sufficient opportunity to cast a ballot.
5. **Absentee Ballots:** Expanded voting hours are critical for ensuring that all eligible voters who wish to vote are able to, but there are some voters who will not be able to vote in person during the days that the Voter Service and Polling Centers are open. For voters who cannot vote in person because they are unable to get to a Voter Service and Polling Center either due to a disability or travel, there must be an effective mechanism for requesting and returning absentee ballots. We would encourage the Secretary of State to adopt a rule that also allows those who cannot vote in person due to hardship (e.g. work or family obligations) to vote an absentee ballot as well.
6. **UOCAVA Voters:** Significant thought seems to have been devoted already to the issue of ensuring that UOCAVA voters receive new ballots, if needed, and that efforts are made to reach out to those voters. We endorse those efforts.
7. **Voter Identification Requirements:** House Bill 13-1303 did not change the identification requirements for those wishing to register to vote or vote in person. We have concerns that the language in Secretary of State Order 13-002 could be read to require that only identification that could be verified in SCORE (that is, Colorado driver licenses or state-issued ID cards) would be acceptable for voting. From conversations with Department of State staff we understand that is not the intent; to avoid confusion, we propose that the language be clarified as follows:

An applicant who wants to both register in person and vote at a voter service and polling center must provide an acceptable form of identification as defined in 1-1-104(19.5)(a), or provide a driver's license number or state-issued ID card number that can be verified when entered into SCORE.

Thank you for the opportunity to submit comments in connection with the election plans for the September 10 recall elections. Should you have any questions, please feel free to contact the individuals and/or organizations listed below.

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